

BOARD OF MAYOR AND ALDERMEN

November 7, 2001

7:30 PM

Mayor Baines called the meeting to order.

The Clerk called the roll. There were eleven Aldermen present.

Present: Aldermen Wihby, Levasseur, Sysyn, Pinard, O'Neil, Lopez, Shea, Vaillancourt, Cashin, Thibault, Hirschmann

Absent: Aldermen Gatsas and Pariseau

3. Presentation of the Verizon Wireless Arena Easter Seals Ornament of Hope, the City's official Christmas ornament, by representatives from Easter Seals, SMG, the Union Leader, Pepsi, and Citizens Bank.

Mayor Baines stated I would like to begin the meeting this evening with a Proclamation regarding Easter Seals.

PROCLAMATION

WHEREAS, Easter Seals New Hampshire has been providing programs and services to children and adults with disabilities since 1939; and

WHEREAS, Easter Seals is dedicated to increasing the independence of individuals with physical, emotional and mental disabilities; and

WHEREAS, Easter Seals served more than 15 million individuals in New Hampshire last year and provided more than \$1.9 million in free and reduced cost services to the people who need it, but could not afford those services; and

WHEREAS, Easter Seals is joined with Verizon Wireless Arena, the Union Leader, Pepsi Cola and Citizens Bank to produce the Easter Seals Ornament of Hope and proceeds from the sale of the ornament will support Easter Seals worthy efforts in the community,

I, Robert A. Baines, by virtue of the authority vested in me as Mayor of Manchester, New Hampshire, do hereby proclaim the Verizon Wireless Arena/Easter Seals Ornament Hope as the City of Manchester's official ornament for the year 2001.

Mayor Baines asked Kathleen Crane to come forward and explain a little bit about the ornament sale.

Ms. Crane stated we are very pleased to have the ability, this year, to offer the Verizon Wireless Arena Commemorative Ornament. It is retailing for \$15.00 and the money, as the

Mayor proclaimed, will be going to provide for free and reduced price services for children and adults with disabilities throughout Manchester and the State of New Hampshire and it is with great pleasure that I present the first in this limited edition series ornament to the City of Manchester in the form of the Mayor.

Mayor Baines stated I've asked Kathleen to explain how members of the community...people can purchase these.

Ms. Crane stated these ornaments may be purchased at any one of the Verizon Wireless Arena outlets or by calling Easter Seals directly at 623-8863 and we appreciate your support.

Mayor Baines stated before we begin the meeting I do have a couple of announcements. One is related to a commendation that I would like to give to the number of people especially Joanne Shaffer and Randy Sherman in the Finance Office, obviously, the Finance Officer Kevin Clougherty, Financial Advisor Rick Tortora from Evensen Dodge bond counsel, Rick Manley from Ropes and Gray regarding the sale of our pension obligation bonds and refunding. This will result in a savings of approximately \$6.7 million over the next 30 years. It's a very significant accomplishment that has occurred by being very vigilant in terms of what was happening in the market and Kevin and I talked about...actually, we started talking about this over a year ago regarding the pension obligation bonds and I know the Finance Department put together the process and would like to specifically congratulate the Trustees of Trust Funds: Phil Stone, Sylvio Dupuis, Matthew Lapointe, Kevin Howe and the investment consultants Bart Earley and Dick Zaccaro of Wainwright Investment Consultants. Obviously, the refunding which was initiated by the Finance Officer and Craig Hrinchevich of AG Edwards purchased special government securities several months ago which presented the City's ability to achieve gross savings of \$900,000 when most municipalities missed the opportunity and also the accelerated sale allowed the City to achieve lowest rates in a generation while preserving the City's strong Aa credit rating and positioning the City for possible future upgrades. The underwriters were AG Edwards and Paine Webber and again the effort on the pension obligation bonds was initiated by the previous administration with the underwriter John Malpiede of Salomon Smith Barney...again, we've taken advantage of it and I want to congratulate Kevin and his staff. Kevin, if you would just like to make some comments about this.

Mr. Clougherty stated I certainly echo the acknowledgments to the people and especially the underwriters that worked on this, they all did a good job and it's something that we have been working on for several years and it was nice to see it finally come to fruition. So, thank you.

Mayor Baines stated this Friday and the City of Manchester will honor veterans Friday with a ceremony in the Aldermanic Chambers at City Hall. The event will begin with a brunch for veterans at 10:00 AM and the ceremony will be held at 11:00 AM. The Manchester

Veterans Day parade will be Sunday with participants stepping off at 10:30 AM from Elm and Webster Streets and pausing at City Hall at 11:00 AM to commemorate the signing of the Armistice that ended World War I which was signed at the eleventh hour of the eleventh day of the eleventh month and there is also a ceremony at the hospital as I correct, that morning.

Alderman Lopez replied at one-thirty in the afternoon.

Alderman Vaillancourt stated you kind of went by the Moody's a little fast...I did have a question for Kevin. As most of us know the rate cut at the federal level was another half a percent this week and it's been coming down more and more and more. Is there any chance that this could even be further reduced so that the obligation would be even less to the City now that we know that the rate cut has been an additional half of a percent.

Mr. Clougherty replied that is always a possibility and we always keep an eye on the rates to see what we can do. There are other factors, not just the rates that go into this, Alderman. Obviously, if the rates are low it's one thing but on the other side you have to also make sure that the investment rates are sufficient to be able to generate the savings; that has been the problem. Several months ago we went out and locked up \$16 million worth of special government securities when a lot of other cities and states didn't and because we were able to lock those up at a higher earnings rate when we did the investment for the refinancing we were able to generate the savings. One of the things you have to take into consideration too is supply. We beat everybody else into the market. This week the State of New Hampshire is going in with a \$100 million bond deal and maybe a week or two from now the New Hampshire Municipal Bond Bank will be in with another \$60 million, so the supply of New Hampshire paper is starting to have an effect too on the rates. But, we constantly watch it and any time that we can take advantage we do.

Alderman Vaillancourt asked won't the rate be a half a percent lower for them than it was for us.

Mr. Clougherty replied no, it doesn't go in lock step with that because you have to take a look at the bond market versus the stock market versus what you get for earnings on the proceeds once you have them done.

Alderman Vaillancourt stated it will be some degree lower.

Mr. Clougherty stated it may, it's not always a guarantee.

Alderman Levasseur stated you said \$6.7 but the paper I have says \$5.7, is there a difference that we don't know about.

Mr. Clougherty stated there are different ways to measure it. The actual gross savings is \$6.7 million, if you were to look at it on a net present value then it would probably drop down a million dollars.

Alderman Levasseur stated this isn't something that you just jumped into. You do this on a regular basis, you always keep an eye on this bond market, right. You always make sure that you're protecting the City's best interests as far as the rates.

CONSENT AGENDA

Mayor Baines advised if you desire to remove any of the following items from the Consent Agenda, please so indicate. If none of the items are to be removed, one motion only will be taken at the conclusion of the presentation.

Approve Under the Supervision of the Department of Highways

- A. Pole Petition #'s 11-922 and 11-924 submitted by Public Service of New Hampshire for poles located off Perimeter Road and Wildwood Street.

Informational – to be Received and Filed

- B. Communication from Kristen Mara, AT&T Broadband submitting a franchise fee check in the amount of \$359,362.31 for the 3rd quarter of 2001.
- C. Copy of a communication from the Office of the Mayor advising of the sale of city bonds results in \$5.7 million in savings.
- D. Communication from Donald Clay, General Manager, Manchester Transit Authority, enclosing information requested by the Board of Mayor and Aldermen; such information having been forwarded to Mayor and Aldermen on October 22, 2001 and on file at the Office of the City Clerk.
- E. Communication from Executive Councilor Thomas P. Colantuono advising approval of authorization to transfer a portion of the State-owned Portsmouth Branch Railroad Corridor from approximately Elm Street to Page Street and State assistance in the amount of \$125,000 (5%) to be matched with Federal funds of \$2,250,000 (90%) and local funds of \$125,000 (5%) for the Manchester Airport Development Project – 43.
- G. Communication from the State of NH, Department of Transportation advising of contemplated awards to various cities and towns.

REPORTS OF COMMITTEES

COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS

- J. Recommending that a request of Manchester Community Health Center to link to the City's website and use the City's graphic logo be granted and approved.

COMMITTEE ON BILLS ON SECOND READING

L. Recommending that Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by amending Section 6.07 Table of Dimensional Regulations by changing under the Height column “35” (feet) to “45” (feet) in the line for R-SM – Residential.”

ought to pass.

O. Recommending that Ordinance:

“Amending the Code of Ordinances of the City of Manchester by deleting Sections 33.046 (C) Entrance Pay and 33.080 Military Service, in their entirety, and inserting new Sections 33.046 (C) and 33.080 to conform with the Federal Uniform Services Employment and Reemployment Rights Act of 1994.”

ought to pass.

P. Recommending that Ordinance:

“Amending Sections 33.024, 33.025 and 33.026 (Security Officer) of the City of Manchester.”

ought to pass.

COMMITTEE ON HUMAN RESOURCES/INSURANCE

- T.** Recommending that the City pay the full cost of medical and dental insurance for those employees involuntarily called to active duty between now and June 30, 2001 for a period of time not to exceed 12 months.

COMMITTEE ON JOINT SCHOOL BUILDINGS

- U.** Advising that it has accepted project reports for the month of October 2001 relative to ADA Accessibility/School Elevators – Parker Varney Elevator/ADA Improvements, NORESKO Performance Contract, McLaughlin Middle School Addition and Central High H&V Phase 6 and Window Replacement and is submitting same to the Board for informational purposes.
- V.** Advising that it has accepted completion of the following projects: Henry J. McLaughlin Jr. Middle School; Central and West Heat & Ventilation Improvements Phase V; Roofing Projects – Weston School, McDonough School and Central High Industrial Arts Building; and Asbestos Abatement – Green Acres School.

COMMITTEE ON LANDS AND BULDINGS

- W.** Recommending that a request of the Airport Director for authorization to negotiate and execute a lease agreement with TruServe Corporation as outlined; and authorization to negotiate and execute permanent access easements to 3F, LLC (The Highlander Inn) and to Oasis Health and Sports Center, Inc. (The Executive Health and Sports Center) be granted and approved subject to the review and approval of the City Solicitor.

COMMITTEE ON TRAFFIC/PUBLIC SAFETY

- Z.** Recommending that certain regulations governing standing, stopping and parking, be adopted and put into effect when duly advertised.
- AA.** Recommending that a request of the Manchester Veterans Parade Committee for closure of Elm Street on November 11, 2001 for the parade to begin at Webster and Elm Streets and end at Veterans Park be granted and approved subject to the review and approval of the Fire, Highway, City Clerk and Police Departments.
- AB.** Advising that it has granted approval of a request of UNH to reserve up to 50 spaces in the Arms Lot from 5:00 to 9:30 PM on December 13 under the supervision of the Traffic Director.

HAVING READ THE CONSENT AGENDA, ON MOTION OF ALDERMAN O'NEIL, DULY SECONDED BY ALDERMAN WIHBY, IT WAS VOTED THAT THE CONSENT AGENDA BE APPROVED.

- F.** Communication from the Department of Environmental Services advising of an application received from the New England Expedition-Manchester, LLC, of Roslyn Heights, New York for a RSA 485-A:17 Site Specific Permit to construct a 148,540 sq. ft. retail center and associated site improvements, called Manchester Commons. (Forwarded to Planning, Conservation Commission and Highway.)

Alderman Levasseur stated I would like to know where that 148,540 square foot retail center (Manchester Commons) is that...the way I'm reading that it says "to construct a 148,540..." I looked at the permit and it doesn't say where that it, does anybody have any knowledge of that.

Mr. MacKenzie replied yes that's the proposed Shaw's development off of South Willow Street.

Mayor Baines stated this is just being referred to Planning, Conservation Commission and the Highway Department.

Deputy Clerk Johnson stated it's listed as being informational – to be received and filed, but we also noted that it had been forwarded to Planning and Conservation and Highway.

Alderman Levasseur stated it says that the application has been received but I'm just wondering if...we haven't actually approved the zoning change which is the question I had on that and I don't understand why it didn't just say Shaw's or ...it didn't have anything on the application, so I wanted to make sure.

Alderman Wihby moved to receive and file the communication from the DES. Alderman Lopez duly seconded the motion. There being none opposed, the motion carried.

- H.** Communication from the State of New Hampshire, Department of Transportation in response to the Board of Mayor and Aldermen's letter of support relating to the utilization of property on Crystal Lake as mitigation for offsetting natural resource impacts associated with the widening of I-93.

Alderman Vaillancourt stated this is in regard to the 37,000 acre tract of land at the corner of South Mammoth and Corning Roads which is being developed by LaMontaigne developers and this is in response to the letter the Board of Mayor and Aldermen sent to Carol Murray recently regarding the attempt to get that land taken by the State as far as mitigation might be concerned for the work being done on Bodwell Road. Sadly, unfortunately, the letter dated October 19, 2001 from Carol Murray is not the most appropriate letter. If you'll refer to your packet two pages farther back to the September 26th letter from David Jeffrey Brilhart the Assistant Director of Project Development, a letter to Andy Manning of the Crystal Lake Preservation Association that is probably the more appropriate letter in explaining which this whole thing is probably not going to happen. He says the site would not be appropriate for wetland creation given the topography and the gas lines. While the site affords some water quality benefits to Crystal Lake he goes on to explain that that is not particularly relevant because the tract of land is downstream from the lake and he also points out that if the site were to be utilized as mitigation for natural resources Parks and Recreation would not be able to build recreational fields there. Carol Murray in her letter notes that it is still under consideration, but I think given those three or four reasons pointed out by Mr. Brilhart is not likely that this will be a site that will move in and pay the \$2 million that would be necessary. Having all of that information Mr. Manning of the Crystal Lake Preservation Association in rather lengthy negotiations with LaMontaigne developers prior to last week's Planning Board session managed to hammer out a deal by which a portion of that land was donated by LaMontaigne's company to the Crystal Lake Preservation Association and also in which the number of units to be built there was scaled back from, I believe, 95 to 55 and there was also a phased-in program in which only one portion and Alderman Sysyn will recall this from the meeting last week...one portion will be built upon and the City will have one year from the signing of that or the Crystal Lake Preservation Association to come up with funding to buy back the other acreage on which the other 12 lots were going to be built. I would certainly urge this Board to do everything in it's power with the Crystal Lake Preservation Association, the Conservation Commission and other bodies in the City to make sure that that 12-parcel area is bought back so it is not further developed and we minimize the amount that is built there and I also have nominated Mr. Manning of the Crystal Lake Preservation Association to receive, I hope still existing Spirit of Manchester Award.

Alderman Wihby moved to receive and file the communication from the State of New Hampshire. Alderman Shea duly seconded the motion. There being none opposed, the motion carried.

- I. Communication from Michael F. Messina regarding an incident involving his son that took place on October 15, 2001.

Alderman Levasseur asked did you ever get an answer on this.

Mayor Baines replied that was handled by somebody on my staff, do you know who handled this letter. Mrs. Blushiy handled it. Again, we refer these things to the Police Department, they're the professionals and Chief Driscoll, I know, always responds to people when they call him. I feel very confident that this has been handled.

Alderman Levasseur stated you haven't received anything else though. Maybe we'll get an update on that one then.

Alderman Levasseur moved to receive and file the communication from Mr. Messina.

Alderman Thibault duly seconded the motion. There being none opposed, the motion carried.

Report of the Committee on Bills on Second Reading:

- K. Recommending that Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by extending the R-SM (Residential Multi-family) zoning district to include Lot 17 and the remaining portion of Lot 8 on either side of Countryside Boulevard west of Hackett Hill Road, in an area currently zoned R-S (Single-family).”

ought to pass.

Deputy Clerk Johnson stated the Clerk had requested this item be removed...the Board did receive an addendum to this agenda and in it was enclosed a new ordinance relating to this committee report. The Planning Director had also recommended that the ordinance lay over to the next meeting. So, our suggestion is that the report be amended to include the new ordinance that was submitted and that the rest of those items pertaining to this that are later on in the agenda be removed from the agenda as we get to them.

Alderman Wihby moved to amend the committee report to reflect that it ought to pass subject to the Planning Director's recommendations and containing the new ordinance which was distributed. Alderman Hirschmann duly seconded the motion. The motion carried with Alderman Cashin duly recorded as abstaining.

Alderman Wihby moved to accept, receive and adopt the report of the committee as amended. Alderman Thibault duly seconded the motion. The motion carried with Alderman Cashin duly recorded as abstaining.

Report of the Committee on Bills on Second Reading:

M. Recommending that Ordinance:

“Amending Title XI: Business Regulations, of the Code of Ordinances of the City of Manchester, by increasing license fees for business activities, reclassifying entertainment places of assembly, deleting Chapter 115: Solicitations, Sales, Peddlers, and Fairs and replacing with a new Chapter 115: Solicitations, Sales, Peddlers, and Fairs.”

ought to pass.

Alderman Wihby moved to accept, receive and adopt the report of the committee. Alderman O’Neil duly seconded the motion. The motion carried with Alderman Levasseur duly recorded in opposition.

Report of the Committee on Bills on Second Reading:

N. Recommending that Ordinance:

“Amending Section 97.34 (B) Encumbrances Prohibited, of the Code of Ordinances of the City of Manchester, by increasing the fee for sidewalk cafes.”

ought to pass.

Alderman O’Neil moved to accept, receive and adopt the report of the committee. Alderman Wihby duly seconded the motion. The motion carried with Alderman Levasseur duly recorded in opposition.

Report of the Committee on Bills on Second Reading:

Q. Recommending that Ordinance:

“An Ordinance amending Section 33.049 Special Merit Pay Increases by changing the requirements of how they shall be granted.”

ought to pass as amended.

Alderman Lopez stated I’m very concerned if we pass this thing tonight for a couple of reasons. I’ve spoken to the Chairman of Bills on Second Reading and I think we ought to table this at the present time for the following reasons: one, we have not received anything back from the committee that you appointed as to what type of recommendation they are going to provide the Board; two, we haven’t guided the Chief Negotiator to anything as an executive board and we haven’t had any input from the HR Director as to the Special Merit Pay. I know our committee as HR, we table this and we suspend paying this and moved to table this ordinance at this time. Alderman Thibault duly seconded the motion.

Alderman Levasseur stated maybe somebody can help me on this. On the actual ordinances itself it says at the bottom “actions to approve such recommendations shall be made by the Human Resources Director and the Mayor and shall be reported to the full Board of Mayor and Aldermen” which I’m glad that language was added in, your Honor, but I’m wondering

where it says “actions to approve such recommendations...”...if we were to add the words or disapprove does it matter.

Mayor Baines stated I had made a mistake because a motion to table has no discussion, so I apologize, I think we’re all a little drained from last night. We have to move on this motion.

Mayor Baines called for a vote on the motion to table. There being none opposed, the motion carried.

Alderman Levasseur stated that doesn’t mean you couldn’t allow it. This is a technical change.

Alderman Wihby stated I thought we were trying to send it back to the committee again.

Deputy Clerk Johnson stated it’s tabled here at the Board level right now. Unless you want to reconsider that action.

Mayor Baines stated it could be referred back to committee, right. What would be wrong with referring it back to committee.

Alderman Lopez stated I have no problem with that. That is not exactly what I want to do, but I have no problem with it.

Deputy Clerk Johnson stated the committee report is from the Committee on Bills on Second Reading, I just want that to be clear that if you’re sending it back to a committee it would be going back to that committee unless you want to send it someplace else.

Alderman Lopez stated I would rather return it to the HR Committee.

Alderman Thibault moved to remove this item from the table. Alderman Lopez duly seconded the motion.

Alderman Wihby stated it already went past HR and went to Bills on Second Reading or never passed HR.

Deputy Clerk Johnson replied Bills on Second Reading had made changes to what the HR Committee had come out with originally.

Alderman Wihby stated when it came to Bills on Second Reading it had been approved from HR, but then it was changed.

Alderman Lopez replied I believe what the HR Committee did was to suspend paying any Special Merit Pay until such a time that we ironed out the things and we have never ironed out the things as to what the language was going to be...I don't really know where the language came from, I don't have any major problem with the language but I think it has to be looked at carefully because the Special Merit Pay is only going to a certain few people and I'm not too happy with it.

Alderman Wihby asked how did we get to Bills on Second Reading if you never passed it in HR.

Deputy Clerk Johnson replied this item was actually submitted initially by Alderman Lopez to the Board as I recall and the Board did refer that to the Committee on Bills on Second Reading, he had language...it was referred there, but also to the Solicitor at one point and there were some changes in the language and Alderman Lopez had represented to the committee at one point that he was questioning why the language had been changed so Bills on Second Reading had tabled it and when they came back at the last meeting and discussed it further and the Committee on Bills on Second Reading made some changes and then sent it to the Board. So, I'm not sure that the Human Resources Committee has actually ever acted specifically on this.

Mayor Baines called for a vote on the motion to remove it from the table. There being none opposed, the motion carried.

Alderman Lopez moved that the report be referred to the Committee on Human Resources. Alderman Shea duly seconded the motion.

Alderman Levasseur stated "actions to approve such"...and I was asking this question, "action to approve such recommendation shall be made by the Human Resources Director and the Mayor." Are they still sent to you if they are not approved, do you know that. In other words, if somebody asks for a Special Merit increase it goes to the Human Resources Director, the language specifically says "actions to approve such recommendations shall be made by the Human Resources Director and the Mayor." But, are the ones that are disapproved, are they still going to come to the Board or only the ones that are going to be approved.

Mayor Baines replied under this it would be only the ones that are approved.

Alderman Levasseur asked wouldn't we want to know if they'd been disapproved or is there an appeal process if they've been disapproved.

Mayor Baines replied I'm not sure the Board wants to get into that type of detail in terms...it's just a matter of reporting, it's an administrative function, it's simply reporting it to the Board.

Alderman Wihby interjected I think there is an appeal to the Board.

Mayor Baines stated no, I don't think so. But, this can all be worked out in committee.

Alderman Levasseur stated that is why I'm making it now so the committee people will know and will be aware of it.

Mayor Baines stated why don't we just move it to committee.

Mayor Baines called for a vote on the motion to refer it to committee. There being none opposed, the motion carried.

Report of the Committee on Bills on Second Reading:

R. Recommending that Ordinance:

“Amending an Ordinance Regulating Traffic Upon the Public Streets of the City of Manchester, by increasing penalties (fines) for parking violations.”

ought to pass.

Alderman Levasseur stated this is about increasing the penalty fines...I'm just going to make my vote to be no.

Alderman Sysyn moved to accept, receive and adopt the report of the committee. Alderman O'Neil duly seconded the motion. The motion carried with Alderman Levasseur duly recorded in opposition.

Report of the Committee on Bills on Second Reading:

S. Recommending that Ordinance:

“Amending Section 151.41 (C) Parking Trailers Outside Parks, of the Code of Ordinances of the City of Manchester.”

ought to pass.

Alderman Levasseur stated with this one I'm a little bit questioning...this is about the parking trailers outside parks. These parking trailers are also...maybe Alderman Thibault can help me with this...those are the ones you drive the mobile homes also. It says that they've removed it from 60 days to 30 days as the limit. I thought that it was kind of a big drop to go from 60 to 30 I would have rather seen 45 because there are times when people...you get a lot of seniors that use them and they drive around and come to visit and I was worried about the time of the drop.

Alderman Thibault stated I believe that what Alderman Shea was relating to here are people who have such motor homes that run their generators throughout the night so that the neighbors are being bothered by the fact that that generator is running. I don't believe that Alderman Shea was opposed to anyone parking a motor home someplace if the generator is not running. Am I right, Alderman.

Alderman Shea stated this was brought up because one of my constituents had to listen to what you're referring to and obviously the fumes were going into her bedroom and the person was parking the vehicle seven feet away from where her property was.

Alderman Levasseur stated I have no problem with that, but the language itself doesn't say anything about leaving them running it only specifically says "no person in the city shall park or occupy any trailer." So, I just don't know if you really wanted that language to be put in there because I think there's a lot of people out there who want to be able to park these things and the language is kind of scary on this.

Alderman Shea stated one of the problems is that 30 days is a considerable amount of time and I would assume that within a 30 day period a visitation could be accomplished, so I would rather it stay with the 30 days.

Alderman Shea moved to accept, receive and adopt the report of the committee. Alderman Lopez duly seconded the motion. The motion carried with Alderman Levasseur duly recorded in opposition.

Report of the Committee on Lands and Buildings:

- X. Recommending that a request from Anagnost Properties for a curb cut on Biron Street be granted and approved.

Alderman Levasseur stated "X" is the recommendation that a request from Anagnost Property for a curb cut on Biron Street be granted and approved. I still wanted to hear from the actual people who first came in front of the Board asking for it not to be approved and all I have is Alderman Cashin wrote a letter saying it's okay, but I didn't hear from enough people and what I heard was they didn't want it, so I just wanted to make my vote to be no on that.

Alderman Cashin stated I believe you were notified and I believe you have a copy of that, if you don't you should have.

Alderman Levasseur stated I talked to some of the people in the neighborhood who told me that they felt that they did not have a choice but to give into this development; that they thought that they were told that there was nothing they could do and they felt like they had to

make this decision, they would have rather not, but they didn't feel as though they had any power or any support. So, I just wanted to put me on record as voting no.

Alderman Cashin moved to accept the report of the committee. Alderman Sysyn duly seconded the motion.

Alderman Shea stated I know I'm a member of the Lands and Buildings Committee and I did question Bill Cashin and I did receive this and I'm not sure if the people did this up under duress, but they're signatures indicating that they are in favor of this. I'm not sure whether you followed up or...

Mayor Baines called for a vote on the motion. The motion carried with Alderman Levasseur duly recorded in opposition.

Mr. MacKenzie stated this project will be coming to the Planning Board. It was my understanding...just so that it is clear on this action that the developer is not going to access Biron Street...that was the primary concern of the neighborhood, he would like to access Kelley Street and is intending to do so, just for the record I wanted to make that clear.

Alderman Levasseur stated on the report it says Biron Street. Is that now going to be changed from Biron Street to Kelley Street...you've just approved Biron Street.

Mr. MacKenzie replied that is what I wanted to clarify. My understanding that they've been negotiating so they do not...

Alderman Levasseur stated that would change my vote.

Alderman Cashin stated now that you bring it up, my understanding is that it was going to be Kelley Street. What they are trying to do is keep the traffic out of the neighborhood and by doing this it was understood and maybe agreed to that this would give them what they wanted.

Mayor Baines stated if you look at the letter "X" it says that our clients are proposing a multi-family elderly housing complex adjacent to Biron Street with proposed access onto Kelley Street.

Alderman Levasseur stated if you read this it says Biron Street.

Alderman Cashin reiterated I believe it's Kelley Street.

Mayor Baines requested Mr. Rhodes to approach the microphone.

Mr. Rhodes stated I believe that there is just a simple clerical...the actual wording of article "X" should read Kelley Street instead of Biron Street.

Mayor Baines stated the Clerk will note that that was a typo and make the correction.

Alderman Hirschmann stated I would like to change my vote on Item X to be recorded in opposition to.

Mayor Baines noted such change in vote.

Alderman Vaillancourt asked I wonder if anybody knows what anybody is doing. Apparently, Alderman Levasseur was the only one that caught this mistake and I guess if we didn't have Alderman Levasseur here we would have passed the wrong thing and we would have been on to the rest of the agenda and maybe on our way home by now, but have we in fact got this down so that it is the way it should be now before we vote.

Mayor Baines replied I think the letter is very clear...it says Kelley Street, I think the Clerk made an error and it's now been corrected and I don't think it's anything more than that.

The Clerk noted that the typographical correction would be made to reflect Kelley Street and the intents of the attached communication, as it was intended by the Committee, and subsequently the Board to approve the request reflected in the communication, and apologized for the confusion.

- Report of the Committee on Traffic/Public Safety:
- Y. Recommending that regulations governing parking be adopted and put into effect when duly posted relating to increasing the limited time metered parking not designated for handicapped parking only in zones less than four hours for vehicles with handicapped placards or plates from three hours to four hours. Handicapped designated parking spaces shall remain free all day for persons issued handicapped placards or handicap plates.

Alderman Levasseur stated this is the issue where the handicapped parking zones now will go from three hours to four hours. There was a very good contingent of people who came from the Downtown area who voted against this, so I think that I agree with them on this.

Alderman Sysyn moved to accept, receive and adopt the report of the committee. Alderman Vaillancourt duly seconded the motion.

Alderman Vaillancourt moved to amend the motion to go to six hours.

Alderman Vaillancourt stated this is in order to make Manchester more friendly to the...it says "handicapped" I guess the proper word is "physically disabled" today and a constituent

of mine on Bodwell Road wanted this rescinded permanently and to go back to the old status where the disabled could park anywhere for any number of hours. I asked him what he thought a reasonable compromise would be since the likelihood of getting it totally rescinded would not be there and he said he would accept six hours as a compromise. I told him that probably that was not likely, but I would attempt to get it to go from three to six hours and the committee, in its infinite wisdom, deemed only to go from three to four hours. So, I am carrying through on a promise that we should go to six hours, it's not hurting anybody except the disabled, so I think six hours is a reasonable compromise.

Mayor Baines stated also we weighed in on that issue with a letter that supported going back to the other system as well.

Alderman Vaillancourt stated you favored giving back all of it completely.

Mayor Baines replied yes.

Alderman Vaillancourt stated I would suggest that a reasonable compromise going from three to no restriction is not going from three to four, but rather from three to six.

Alderman Hirschmann stated disabled advocates were at a Public Safety meeting. State Representative Carol Williams representing a ward of the City...I don't know if it's Ward 7...she gave testimony saying that four hours for the disabled in the Downtown area was very acceptable and amenable and we moved on that.

Alderman Sysyn stated that is why we all agreed to four hours because Carol testified and she said that she thought four hours was fine and she's a Rep up in Concord and she is in a wheelchair.

Alderman Vaillancourt stated we agreed to four but we didn't all agree to four, I wanted six. So, it wasn't quite agreeing to four but agreeing that three to four was better than three, but as I said at the time I would bring six forward.

Alderman Levasseur stated the point I wanted to make was that every single meter in Downtown has this available to the disabled that they can park for four hours for free. This is the motion that is going to be made. I was under the belief that we had designated handicapped parking spaces which we do and I think it would be more appropriate that every certain amount of feet there should be designated parking spaces and not making them all that way because if there are designated ones then only those with handicapped disability would be able to park there and they would have those parking spaces available to them when they come down. I don't believe there's enough of the designated spaces, but I think there's too many that they can just go to and I think that creates a little bit of a problem and that's where I was going with this and is why I would vote no. I don't think there's enough

designated spots in appropriate places. I think there's a couple in certain locations, but I think there should have been more.

Mayor Baines stated people have had a chance to weigh in on this and present their opinions and this is the recommendation of the committee and called for a vote on the motion to accept the report of the committee. The motion carried with Alderman Levasseur duly recorded in opposition.

Report of the Committee on Traffic/Public Safety:

- AC. Recommending the Board approve changes to parking rates, establish a parking validation program, and adopt regulations governing parking when duly advertised as follows:

Parking garage rates:

Monthly rate \$56.00 for 6AM to 7PM Monday through Friday excluding holidays

Center of NH Garage, Canal Street Garage, Victory Garage, Fleet Bank Garage, Wall Street Garage

Monthly rate \$75.00 – 24 hours day Monday through Saturday excluding holidays (includes posted civic center event times)

Center of NH Garage, Canal Street Garage, Victory Garage

Hourly rate \$0.50 per hour 6AM to ~~4AM~~ 6PM Monday through Saturday excluding holidays

Center of NH Garage, Canal Street Garage, Victory Garage

Prepay rate after 6PM Monday through Saturday excluding holidays

Victory Garage \$3.00 per vehicle

Validation Program 6AM to 8PM (including civic center event nights), three hour limit

Canal and Victory Garages

Validating tickets available to retailers at a cost of \$0.25 per ticket. Each ticket good for one hour free parking.

NOTE: CHANGES REFLECT FREE PARKING AT THE CANAL STREET GARAGE ONLY ON NON CIVIC CENTER EVENT NIGHTS, NON-CIVIC CENTER EVENT WEEKENDS, AND UP TO TWO HOURS PRIOR TO EVENTS ON WEEKENDS.

Civic Center Event Parking Fees – (to be posted for Civic Center events)

Center of NH Garage ~~\$12.00~~ **\$10.00**

Victory Garage

Monday through Friday Early Bird Special 4PM-6PM arrival time

\$3.00 ~~upon exit~~ prepay

Monday through Friday after 6PM

\$5.00 ~~upon exit~~ prepay

Saturday/Sunday starting two hours prior to event

\$5.00 prepay

Canal Street Garage

Monday through Friday Early Bird Special 4PM-6PM arrival time

\$3.00 ~~upon exit~~ prepay

Monday through Friday after 6PM
\$5.00 ~~upon exit~~ prepay
Saturday/Sunday starting two hours prior to event
\$5.00 prepay

Parking lot rates:

By permit \$36.00 month 8AM to 5:30 PM Monday through Friday
Arms Extension Lot, Arms Lot, Arms Outer Lot, Bedford Lot, Granite Lot,
Myrna Lot and Seal Lot

By permit \$41.00 month 8AM to 5:30 PM Monday through Friday
Hartnett Lot, Pearl Street Lot and Pine Street Lot

Civic Center Event Parking Fees – to be posted Civic Center event parking
Pine Street Lot \$10.00 *prepay*
Rubenstein Lot 5.00 *prepay*
Hartnett Lot 5.00 *prepay*
Arms Lot 5.00 *prepay*
Bedford Lot 5.00 *prepay*
Seal Lot 5.00 *prepay*

Hourly rates – metered \$0.50 per hour
10 hour meters – 8AM to ~~10 PM~~ 8PM Monday through Saturday
Hartnett Lot (72 meters), Pearl Street Lot (6 meters), Granite Street Lot (10
meters), Arms Outer Lot (5 meters)

2 hour meters – 8AM to ~~10 PM~~ 8PM Monday through Saturday
Pine Street Lot (12 meters), Pearl Street Lot (38 meters), Myrna Lot (26
meters), Middle Street Lot (31 meters)

\$30.00 per month civic center event decal, 5:30 PM to 10PM Monday Through
Friday, and Saturday 8AM to 10PM
For Pine Street Lot, Pearl Street Lot, Seal Lot, Arms Lot, Bedford Lot,
Rubenstein Lot, Hartnett Lot,
For 10 hour metered spaces Hartnett Lot, Pearl Street Lot, Granite Street Lot,
and Arms Outer Lot

On-Street Parking rates:

\$31.00 per month Downtown On-Street parking permit 8AM through 5:30 PM
Monday through Friday
For 10 hour metered spaces east of Canal Street, excluding Elm Street, in lieu
of coin deposit
(Pursuant to Section 64 of the Traffic Ordinance)

\$31.00 per month Millyard On-Street parking permits 8AM through 5:30 PM
Monday through Friday
For any metered parking space area bounded on north by West Penacook,
south by Granite Street, east by West Canal, and west by Merrimack River.
(Pursuant to Section 64 of the Traffic Ordinance)

\$30.00 per month civic center event decal 5:30 PM to 10PM Monday through
Friday, and Saturday 8AM to 10PM
For 10 hour meters any location in lieu of coin deposit
(Pursuant to Section 64 of the Traffic Ordinance)

Hourly rates – metered \$0.50 per hour all meters
10 hour meters – 8AM to ~~10 PM~~ 8PM Monday through Saturday
2 hour meters – 8AM to ~~10 PM~~ 8PM Monday through Saturday (formerly 0.50
per hour)

The Committee notes that the Traffic Department will ensure that there is a sign stating that the parking garages are open or full so that the public can see. This signage shall be put into effect as soon as possible.

Alderman Levasseur stated this is the Board approving the parking rates and the changing in the validation program and I would again like to be...you based a lot of your budget on some of these numbers and they can change pretty dramatically and I don't know how it's going to change your revenue stream. They say it's not going to affect it in an adverse way, but I still believe that some of these numbers are just not right, so I am just going to vote no.

Alderman Sysyn moved to accept, receive and adopt the report of the committee. Alderman Lopez duly seconded the motion.

Alderman O'Neil stated I want to commend the Traffic Committee for their work, I think there's some good compromises here and I think they did a nice job with it.

Mayor Baines called for a vote on the motion to accept the report. The motion carried with Alderman Levasseur duly recorded in opposition.

Mayor Baines presented the following nomination requesting suspension of the rules and confirmation this evening.

Highway Commission:

Henry Bourgeois to succeed himself, term to expire January 15, 2005.

Alderman Wihby moved to suspend the rules and confirm the nomination of Henry Bourgeois to succeed himself as a member of the Highway Commission, term to expire January 15, 2005. Alderman Pinard duly seconded the motion. There being none opposed, the motion carried.

5. Confirmation of the nomination of Ann McArdle to fill the unexpired term of Karen Rumfelt to the Personnel Appeals Board; term expiring March 2004.

Alderman Levasseur moved to confirm the nomination of Ann McArdle to fill the unexpired term of Karen Rumfelt to the Personnel Appeals Board, term to expire March 2004.

Alderman O'Neil duly seconded the motion. There being none opposed, the motion carried.

6. Nomination of David Jespersen to the Manchester Transit Authority; term to expire May 2006, such nomination having been made at the October 16 meeting. (Note: nominations to MTA vacant position have not been closed.)

Alderman Cashin moved to nominate Michael Gatsas as a member of the MTA Commission.

Alderman Shea moved to nominate Robert Beliveau as a member of the MTA Commission.

Alderman Levasseur moved to nominate Robert Barry as a member of the MTA Commission.

Alderman Wihby moved to close nominations. Alderman Thibault duly seconded the motion.

Alderman Vaillancourt stated at the last meeting Alderman Cashin tried to bring it Alderman Pariseau and wanted to delay so Alderman Pariseau could finish out his term and then go to this and then we learned in one of those serial cliffhangers that that would not be possible because Alderman Pariseau apparently works for the State. Now, Alderman Pariseau serves on the Board that ultimately dealt with the employees of the MTA and the management of the MTA as one of the Aldermen intimately involved trying to bring these to the...there is a second Alderman who by sheer magic is also going to be leaving us as of the first week in January who also would be available if we decided to hold this in abeyance until the first of January and we could, in fact, not have Alderman Pariseau, but have the other Alderman who is admired just as much if you receive letters...

Mayor Baines asked "who"...

Alderman Vaillancourt replied it's Alderman Levasseur.

Alderman Levasseur stated I would like to say thank you to Alderman Vaillancourt, but I would not want my name in there for consideration even though I do a good job, I think that the candidates we have already...there's enough candidates.

Mayor Baines called for a vote on the motion to close nominations. There being none opposed, the motion carried.

Mayor Baines asked the Clerk for advice.

Deputy Clerk Johnson stated ordinarily these would layover until the next meeting unless they want to suspend the rules.

Alderman Cashin moved to suspend the rules. Alderman Thibault duly seconded the motion.

Alderman Vaillancourt stated not on suspending the rules but a clarification as to whether this takes 7, 8 or 9 votes...being one 11 of us here, does it take 6 or 7 or 8 is it a majority of those present.

Deputy Clerk Johnson replied those present and voting.

Mayor Baines called for a vote on the motion to suspend the rules. There being none opposed, the motion carried.

A roll call vote was taken on the nominations to the MTA Commission.

Alderman Wihby cast his ballot for Michael Gatsas.
Alderman Levasseur cast his ballot for Robert Barry.
Alderman Sysyn cast her ballot for Michael Gatsas.
Alderman Pinard cast his ballot for David Jespersen.
Alderman O'Neil cast his ballot for Michael Gatsas.
Alderman Lopez cast his ballot for Michael Gatsas.
Alderman Shea cast his ballot for Robert Beliveau.
Alderman Vaillancourt cast his ballot for David Jespersen.
Alderman Cashin cast his ballot for Michael Gatsas.
Alderman Thibault cast his ballot for Michael Gatsas.
Alderman Hirschmann cast his ballot for Michael Gatsas.
Aldermen Gatsas and Pariseau were absent.

Alderman Levasseur moved to accept and confirm the nomination of Michael Gatsas as an MTA Commissioner. Alderman Shea duly seconded the motion. There being none opposed, the motion carried.

On motion of Alderman Thibault, duly seconded by Alderman Pinard, it was voted to recess the regular meeting to allow the Committee on Finance to meet.

Mayor Baines called the meeting back to order.

OTHER BUSINESS

10. Report of the Committee on Finance, if available.

Deputy Clerk Johnson advised there was no report of the Committee on Finance to be presented.

Mayor Baines stated we don't have to do anything with that, everything is in place...please explain.

Deputy Clerk Johnson stated the Finance Committee has approval over budget authorizations, those do not have to be reported out to the Board and that is the only item you took up on the agenda other than an informational discussion.

Alderman Levasseur stated as far as the MTA Commissioner...we approved Mr. Gatsas tonight, does his job take immediate effect or when.

Deputy Clerk Johnson replied as soon as he takes the oath of office.

11. Ordinances:

“Amending the Zoning Ordinance of the City of Manchester by amending Section 6.07 Table of Dimensional Regulations by changing under the Height column “35” (feet) to “45” (feet) in the line for R-SM – Residential.”

“Amending Title XI: Business Regulations, of the Code of Ordinances of the City of Manchester, by increasing license fees for business activities, reclassifying entertainment places of assembly, deleting Chapter 115: Solicitations, Sales, Peddlers, and Fairs and replacing with a new Chapter 115: Solicitations, Sales, Peddlers, and Fairs.”

“Amending Section 97.34 (B) Encumbrances Prohibited, of the Code of Ordinances of the City of Manchester, by increasing the fee for sidewalk cafes.”

“Amending the Code of Ordinances of the City of Manchester by deleting Sections 33.046 (C) Entrance Pay and 33.080 Military Service, in their entirety, and inserting new Sections 33.046 (C) and 33.080 to conform with the Federal Uniform Services Employment and Reemployment Rights Act of 1994.”

“Amending Sections 33.024, 33.025 and 33.026 (Security Officer) of the City of Manchester.”

“Amending and Ordinance Regulating Traffic Upon the Public Streets of the City of Manchester, by increasing penalties (fines) for parking violations.”

“Amending Section 151.41 (C) Parking Trailers Outside Parks, of the Code of Ordinances of the City of Manchester.”

Deputy Clerk Johnson noted that two ordinances had been removed from the listing on the agenda relating to the rezoning and a human resources matter.

Alderman Shea moved to dispense with the readings by titles only. Alderman Thibault duly seconded the motion. There being none opposed, the motion carried.

Alderman Levasseur stated I have opposition to some of these, so I would just note that I was opposed to...

Deputy Clerk Johnson noted we haven't voted on them yet. These are coming up for enrollment now.

These ordinances having been presented for their second readings by titles only, Alderman Shea moved on passing same to be enrolled. Alderman Lopez duly seconded the motion. The motion carried with Alderman Levasseur duly recorded in opposition to the second, third, sixth and seventh ordinances listed above relating to business licensing, sidewalk café permits, parking fines and trailers.

On motion of Alderman Thibault, duly seconded by Alderman Levasseur, it was voted to recess the regular meeting to allow the Committee on Accounts, Enrollment and Revenue Administration to meet.

Mayor Baines called the meeting back to order.

Report of the Committee on Accounts, Enrollment and Revenue Administration,
advising that Ordinances:

“Amending the Zoning Ordinance of the City of Manchester by amending Section 6.07 Table of Dimensional Regulations by changing under the Height column “35” (feet) to “45” (feet) in the line for R-SM – Residential.”

“Amending Title XI: Business Regulations, of the Code of Ordinances of the City of Manchester, by increasing license fees for business activities, reclassifying entertainment places of assembly, deleting Chapter 115: Solicitations, Sales, Peddlers, and Fairs and replacing with a new Chapter 115: Solicitations, Sales, Peddlers, and Fairs.”

“Amending Section 97.34 (B) Encumbrances Prohibited, of the Code of Ordinances of the City of Manchester, by increasing the fee for sidewalk cafes.”

“Amending the Code of Ordinances of the City of Manchester by deleting Sections 33.046 (C) Entrance Pay and 33.080 Military Service, in their entirety, and inserting new Sections 33.046 (C) and 33.080 to conform with the Federal Uniform Services Employment and Reemployment Rights Act of 1994.”

“Amending Sections 33.024, 33.025 and 33.026 (Security Officer) of the City of Manchester.”

“Amending an Ordinance Regulating Traffic Upon the Public Streets of the City of Manchester, by increasing penalties (fines) for parking violations.”

“Amending Section 151.41 (C) Parking Trailers Outside Parks, of the Code of Ordinances of the City of Manchester.”

are properly enrolled.

Alderman Hirschmann moved to accept, receive and adopt the report of the Committee on Accounts, Enrollment and Revenue Administration. Alderman Pinard duly seconded the motion. The motion carried with Alderman Levasseur duly recorded in opposition to the ordinances relating to business licensing, café permits, parking fines and trailers.

15. Communication from the Airport Director requesting authorization to enter into a Hold Harmless and Sewer Ownership Agreement with the Town of Londonderry as part of the reconstruction and extension of Runway 17/35; subject to the review and approval of the City Solicitor.

Alderman O'Neil moved to approve the request of the Airport Director, subject to the review and approval of the City Solicitor. Alderman Pinard duly seconded the motion. There being none opposed, the motion carried.

16. Communication from the Airport Director requesting authorization to enter into multi-year agreements on behalf of the Airport and the City when situations necessitate immediate commitment or approval for a period of one year subject to review and annual renewal thereafter. It is noted that all such agreements would be reported to the Board of Mayor and Aldermen on a monthly basis.

Alderman Thibault moved to approve the request of the Airport Director as outlined.
Alderman Lopez duly seconded the motion.

Alderman Levasseur asked once the agreement is entered into what is the power of the Board of Mayor and Aldermen as it says on a monthly basis. I trust Mr. Dillon very, very strongly but he may not always be there and we are saying "enter into these"...do we have any recourse if you enter it and we don't want to do it unless you're talking little contracts.

Mr. Dillon replied the problem that the Airport's been running into from time-to-time is presently I only have authorization to enter into agreements that would be covered under a specific budget year or a specific CIP project. For example, there are a number of agreements tonight on the consent agenda that have caused the Airport a problem by delaying entering into them by delaying us executing the agreement. Simple agreements, for example, granting easements to the Executive Health Club...in this particular case it's putting jeopardy...the actual Letter of Intent funding from the FAA for the runway work which was a \$56 million grant by delaying the execution of those agreements because we weren't in compliance with different agreements that we had to provide to the FAA in order to qualify for that grant. So, what I'm asking for is the ability to enter into multi-year agreements that would extend in some cases beyond the budget year or the CIP authorization. I think if you'd note that I asked for is that this item be referred to the appropriate Aldermanic Committee so that specific guidelines could be developed as to how those agreements would be entered into. What I am suggesting is that the Airport have the authorization to enter into these agreements and they would be reported to the Board on a monthly basis but it would be a retroactive reporting.

Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

17. Bond Resolutions:

"Authorizing Bonds, Notes, or Lease Purchases in the amount of Four Hundred Fifty Thousand Dollars (\$450,000) for the 2001 CIP 511001 McIntyre Ski Area Rehabilitation Phase 4 Project."

“Authorizing Bonds, Notes, or Lease Purchases in the amount of Three Hundred Thousand Dollars (\$300,000) for the 2002 CIP 810802 Revaluation Project Phase II & III Project.”

“Authorizing Bonds, Notes, or Lease Purchases in the amount of One Million Dollars (\$1,000,000) for the 2002 CIP 411202 Cohas Brook (SE area) Fire Station Project.”

On motion of Alderman Thibault, duly seconded by Alderman Pinard, it was voted that the Bond Resolutions be read by titles only, and it was so done.

Alderman Shea moved that the Bond Resolutions pass and be enrolled. Alderman Pinard duly seconded the motion.

Alderman Hirschmann asked could Bob MacKenzie tell us...on the fire station is that the last lump sum.

Mr. MacKenzie replied there would have to be one more. Presently, with this \$1 million is \$1.5, the total project cost including the fire apparatus is about \$2.5 million, so there's about roughly \$1 million more after this vote.

Mayor Baines called for a vote on the motion. Aldermen Wihby, Levasseur and Hirschmann were recorded in opposition to the second listed Bond Resolution relating to the revaluation project; all other members were recorded in favor of this resolution. All members present were recorded in favor of the balance of the Bond Resolutions which had been presented.

Deputy Clerk Johnson advised that there should be a motion to probably table the revaluation project resolution until the next meeting so we can research, I don't believe there's enough votes.

Mayor Baines stated we need ten votes for Bond Resolutions, so if we have three opposed we have 9 in favor and 3 opposed.

Deputy Clerk Johnson stated normally it would require 10 votes, we would have to check with bond counsel because there are only 13 members now, so that may change but I would suggest that it be tabled.

Alderman Hirschmann stated earlier when I opposed that I was hoping to make an amendment. I felt that the revaluation company was due money but maybe not the whole amount. Could we make a motion to amend to hold say 10% and pay them a portion of their money which they certainly earned but not the full amount; that way I would approve the Resolution.

Deputy Clerk Johnson stated the Bond Resolution would have to be passed as presented or reduced, this is actually the backup to the cash available, so there would not be enough cash available, so there would not be enough cash available...what the Board could do is a separate motion to that effect if it wanted to hold funds, it could direct the Planning Director to hold funds aside as a separate motion from the Bond Resolution.

Mayor Baines stated with this not passing I'm assuming they're going to go to court and sue the city, right, for non-payment...that's likely to happen Tom.

Deputy City Solicitor Arnold replied that's a possibility.

Alderman Hirschmann stated we're not discussing that, your Honor, I'm discussing an amendment...

Mayor Baines stated I'm just asking if the whole thing doesn't pass. Okay, what do you want to do then, do you want to amend.

Alderman Hirschmann stated I would like to amend because I said they did a fair amount of work but the Assessor admits that we are owed maps and schedules and all kinds of things. You can go to court and argue all you want, but if they didn't do it, they didn't do it.

Mr. Clougherty stated it seems to me you have two motions. One is the authorization to make the payment which was discussed earlier...this is to raise the funds to make the payment. This requires a vote of 10 members of the Board. So, you could actually authorize them to make payment but not have the funds. You need to have both. So, you'd really have to amend the previous item, I think, right.

Deputy Clerk Johnson stated if the Board so desired to take up what Alderman Hirschmann is attempting to do you might want to entertain a motion to direct that 10% be held aside and not paid out of that budget authorization that was earlier approved by the Finance Committee; that would accomplish what he is trying to do and then the Bond Resolution could be placed again on the table for a final reading.

Alderman Shea stated I was under the understanding when Steve spoke that 10% was going to be held back; that's what he indicated that they would pay 90% and 10% and I'm not sure...but that was my understanding.

Deputy Clerk Johnson stated I think his intent is to have the 10% held aside until the Board approves it rather than having it at the discretion of the Assessors at this time.

Alderman Hirschmann stated I will vote yes if that is a condition.

Alderman Wihby moved to withhold \$300,000.

Mayor Baines asked for clarification because we have to raise the money. All this does is raise the money, it doesn't spend the money.

Deputy Clerk Johnson stated but you've already authorized the spending of the money subject to approval of this, so what I'm saying to you now is that if I'm understanding Alderman Hirschmann right you're saying he does not want that Bond Resolution approved unless 10% is held aside from the payment, so I would take that motion up first to direct that 10% be held aside until the Board of Mayor and Aldermen releases it for payment.

Mayor Baines stated so you're going to amend number two...

Deputy Clerk Johnson interjected no, you're not going to amend anything. You're taking it as a separate motion to direct that those funds are not expended.

Mayor Baines stated we took a motion to deal with all three of these things.

Deputy Clerk Johnson stated yes and the motion failed...what I'm saying to you is that that second resolution has not passed, the other two have.

Alderman Wihby moved to withhold \$300,000 of the \$300,000.

Deputy Clerk Johnson stated \$300,000 from the budget authorization subject to the approval by the Board.

There was no second to Alderman Wihby's motion.

Alderman Hirschmann moved to pass the Bond Resolution and authorize the Finance Department to withhold 10% to the vendor.

Mayor Baines asked, Carol, would you please advise.

Deputy Clerk Johnson stated the Clerk is advising that it needs to be two separate motions. The first motion can deal with withholding the 10%.

Alderman Shea duly seconded the motion to withhold 10%.

Alderman Vaillancourt moved to table. Alderman Wihby duly seconded the motion.

Deputy Clerk Johnson stated you would be tabling the motion to withhold 10% at this point.

Mayor Baines called for a vote on the motion to table.

Deputy Clerk Johnson stated the Bond Resolution is not on the floor at this time.

Alderman Wihby asked for clarification. I don't want them to get any money, so if I'm voting yes not to withhold, this is a reverse.

Mayor Baines stated I think we should all go home very shortly here.

Alderman Vaillancourt stated my motion to table was meant to table the entire item.

Mayor Baines stated there is a motion on the floor by Alderman Hirschmann.

Alderman Levasseur stated withdraw it, how do we do that.

Alderman Wihby stated no one seconded the motion.

Deputy Clerk Johnson stated yes we had a second by Alderman Shea.

Mayor Baines stated if you want to vote on his motion I would say you vote against tabling.

Alderman Wihby asked what happens if the motion is defeated then we're going to be giving them more money.

Mayor Baines replied no, if the motion is defeated his motion comes back and we're going to vote on his motion.

Alderman Wihby stated wait a minute, here's my predicament. I don't want to give them any money, but if we're going to hold back something I'd just as soon go for this motion and hold back something. I would just as soon not give them anything.

Mayor Baines called for a roll call.

Alderman Wihby stated I'll move to table the whole thing, your Honor.

Mayor Baines stated no, call the roll please.

Alderman Wihby stated I have no idea what we're voting on, your Honor.

Deputy Clerk Johnson replied on tabling the motion for the 10%.

Alderman Wihby stated I don't want them to get anything, I don't know how to vote.
Explain to me how I'm suppose to vote if I don't want them to get anything.

Alderman Vaillancourt interjected if you vote to table this, I'll then move to table the next one as well.

Mayor Baines stated all you're doing is voting to table.

Alderman Wihby stated that's giving less to the company.

Mayor Baines stated all we're doing is voting on his motion right now.

Alderman Wihby stated if I vote against the motion I'm moving to give them money.

Alderman Cashin asked would the Alderman from Ward 12 withdraw his motion.

Alderman Hirschmann stated can't you people just vote.

Mayor Baines stated I don't know why we vote just yes or no and let's move forward.

A roll call vote was taken on the motion to table. Aldermen
Levasseur, Sysyn, Pinard, O'Neil, Lopez, Shea, Cashin, Thibault and Hirschmann voted nay.
Alderman Vaillancourt voted yea. Aldermen Gatsas and Pariseau were absent. Alderman
Wihby abstained.

Mayor Baines stated Alderman Hirschmann's motion is now back on the floor and asked the Clerk to read the motion.

Deputy Clerk Johnson replied the motion on the floor now is to withhold 10% payment based on the budget authorization earlier approved.

Alderman Shea moved to approve the motion to withhold 10%. Alderman Thibault duly seconded the motion.

Alderman Wihby stated we're voting to withhold 10%, if this does not pass what's next.

Deputy Clerk Johnson replied the bond resolution may or may not be taken up and a motion could be taken up to either table it or enroll it.

A roll call vote was taken to withhold 10%. Aldermen Shea, Thibault, Hirschmann, voted yea. Alderman Vaillancourt, Cashin voted nay.

Alderman Wihby asked for clarification. No matter what, there is going to be a vote...I'll have a chance after this to vote to not pay them anything, is that true. So, this pays them less...I'm in favor of paying them less, but I'm in favor of paying them nothing and I'll vote yes because we're paying them less with this motion.

Aldermen Levasseur, O'Neil and Lopez voted yea. Aldermen Sysyn and Pinard voted nay. Aldermen Gatsas and Pariseau were absent. The motion to withhold 10% payment of the budget authorization that was approved subject to adoption of the bond resolution passed.

Alderman Cashin moved to table the second bond resolution relative to the Revaluation Project. Alderman Wihby duly seconded the motion.

A roll call vote was taken on the motion to table the bond resolution. Aldermen Wihby, Levasseur, O'Neil and Cashin voted yea. Aldermen Sysyn, Pinard, Lopez, Shea, Vaillancourt, Thibault and Hirschmann voted nay. Alderman Gatsas and Pariseau were absent. The motion to table failed.

Alderman Hirschmann moved that the revaluation project Bond Resolution pass and be Enrolled. Alderman Shea duly seconded the motion. A roll call vote was taken on the motion that this Bond Resolution pass and be Enrolled. Aldermen Vaillancourt, Cashin, Wihby, Levasseur and Pinard voted nay. Aldermen Thibault, Hirschmann, Sysyn, O'Neil, Lopez and Shea voted yea. Aldermen Gatsas and Pariseau were absent. The motion failed.

Deputy Clerk Johnson stated we will bring it back at the next meeting or one could move to table it again. No further action was taken on the resolution.

18. Ordinances:

“Amending the Zoning Ordinance of the City of Manchester by amending Section 6.07 Table of Dimensional Regulations by changing under the Height column “35” (feet) to “45” (feet) in the line for R-SM – Residential.”

“Amending Title XI: Business Regulations, of the Code of Ordinances of the City of Manchester, by increasing license fees for business activities, reclassifying entertainment places of assembly, deleting Chapter 115: Solicitations, Sales, Peddlers, and Fairs and replacing with a new Chapter 115: Solicitations, Sales, Peddlers, and Fairs.”

“Amending Section 97.34 (B) Encumbrances Prohibited, of the Code of Ordinances of the City of Manchester, by increasing the fee for sidewalk cafes.”

“Amending the Code of Ordinances of the City of Manchester by deleting Sections 33.046 (C) Entrance Pay and 33.080 Military Service, in their entirety, and inserting new Sections 33.046 (C) and 33.080 to conform with the Federal Uniform Services Employment and Reemployment Rights Act of 1994.”

“Amending Sections 33.024, 33.025 and 33.026 (Security Officer) of the City of Manchester.”

“Amending Section 151.41 (C) Parking Trailers Outside Parks, of the Code of Ordinances of the City of Manchester.”

Alderman O’Neil moved to dispense with the reading by titles only of the Ordinances.

Alderman Pinard duly seconded the motion. There being none opposed, the motion carried.

These Ordinances having had their third and final readings by titles only, Alderman Thibault moved on passing same to be ordained. Alderman Shea duly seconded the motion. The motion carried with Alderman Levasseur duly recorded in opposition to the ordinances relating to business licensing, café permits, and trailers.

TABLED ITEMS

- 19.** Notice of Reconsideration given by Alderman Gatsas on October 2, 2001 regarding a motion to release the \$50,000 appropriation to the Manchester Transit Authority.
(Tabled 10/16/01 pending report from MTA forwarded under separate cover.)

Alderman Thibault moved to remove item 19 from the table for discussion. Alderman Levasseur duly seconded the motion. There being none opposed, the motion carried.

Alderman Levasseur moved to receive and file item 19.

Deputy Clerk Johnson noted there was a communication from the Transit Authority that was submitted to the Board in relation to this item.

Mayor Baines stated I think we need to release that money...we need a motion to release it, don’t we.

Alderman Levasseur stated we already gave them money and then there was just a motion for a notice of reconsideration.

Deputy Clerk Johnson stated there was a motion for reconsideration on what had passed to release it.

Alderman Thibault duly seconded the motion to receive and file item 19. There being none opposed, the motion carried.

- 20.** Proposal to amend the Purchase and Sale Agreement between the City of Manchester and the Sargent Museum for the purchase of the 88 Lowell Street property.
(Tabled 10/16/01)

Deputy City Solicitor Arnold stated Jay Taylor and I have been in contact with the Sargent Museum. We have sent them a counter proposal and am waiting to hear back from the museum at this time. We're hoping to have it for your next meeting.

Alderman Shea moved that item 20 relating to the Sargent Museum remain tabled.

Alderman Thibault duly seconded the motion. There being none opposed, the motion carried.

Deputy Clerk Johnson stated there are a few items that came through an addendum, the first being:

Petition to discontinue portions of Faltin then up Loring Street for a shopping center project (Donovan Spring) property off South Willow Street submitted by Attorney Lazos

Deputy Clerk Johnson stated they had requested it be expedited...the normal process is to refer to CIP which is what the recommendation from the Planning Director is, I know that Alderman Pariseau had requested that it be tabled and I did speak with the Chairman of the CIP Committee who indicates that if it is referred to his committee he would hold it up until Alderman Pariseau was present.

Alderman O'Neil moved that the petition for discontinuance be referred to the Committee on Community Improvement. Alderman Lopez duly seconded the motion. There being none opposed, the motion carried.

Communication relative to a poster entitled "In God We Trust" received from a citizen asking the Board accept it and place it in public display in City Hall.

Alderman Lopez moved to accept the poster and display in public someplace in City Hall. Alderman Thibault duly seconded the motion. There being none opposed, the motion carried.

Mayor Baines commended the City Clerk's Office for another extraordinary job carrying out the election process as a lot of hard work goes into that and the meticulous nature which the City Clerk's Office performs that is worthy of commendation by the Board.

Alderman Thibault moved to commend the Office of the City Clerk for an extraordinary job in carrying out the election. Alderman Shea duly seconded the motion. There being none opposed, the motion carried.

Mayor Baines commended all who sought office both those who were successful who were not because it is my exercising that responsibility to put yourself up to serve the community is worthy of commendation and I commend all who chose to do that and I look forward to working with all the new members who have been elected in yesterday's elections.

Alderman Vaillancourt stated I have in my hand a map sent to me by Bob Barry, not the Bob Barry that was up for the Transit Commissioner earlier, but the Bob Barry of the Department of Transportation in Concord who is overseeing the Airport Access Road and I have the new map design for the Airport Access Road which you may have heard has been delayed yet another year.

Mayor Baines asked will you point out where the eagles are.

Alderman Vaillancourt replied no, but I will point out this area right here. That's the piece of property that's often known as the "King" house which earlier this year, the King Family tried to have rezoned, trying to build a hotel there knowing full well that the Airport Access Road was going right across there...I made that clear at the time and I just wanted to offer this as proof that the Airport Access Road will in fact be going right across where that property is. I do have copies of this for anybody that wants it.

Alderman Lopez stated I just want to ask if the City Solicitor can explain in writing to the Board here in reference to us by not authorizing those bonds before the next meeting and our obligation not to pay as to what the legal obligation would be.

Mayor Baines stated are we going to ask for that to the Board by the next meeting, would you respond to that question, okay.

Alderman Levasseur stated first of all I would like to say thank you to Alderman Vaillancourt because you did your constituents a big favor and a lot of people probably don't realize it that it took a lot of work to make sure that there wasn't any fooling around going on in there. I want to say thank you to *The Union Leader*, the Editor, the ghost writer...they don't know who's writing the editorials, but the person that wrote the editorial on the day of the election wrote an editorial about the Charter Amendment and I thought it was very well written and it was right on point and I also want to congratulate the voters of the City of Manchester for overwhelmingly supporting that Charter Amendment and, your Honor, I was very happy to see your comments in the paper today saying that you hope the School side will also follow the wishes of the voters who said they want to join this City as one and not keep it divided and I just want to say thank you to the Editor...whoever you are, it's a ghost writer right now. I'd like to ask you a question on the handicapped exemptions. I've been getting phone calls from people saying that we can't get...I guess once you turn 65 you're not qualified for the exemptions any longer you go to an elderly exemption because you lose your Title 19 and Title II status and obviously there were people who were really upset about that because they fell within the parameters of the exemptions of the \$200,000 qualification and of the \$90,000 income. There's a very generous package for the disabled but when you turn 65 you lose your status as handicapped and now you gain the status of being aged and you lose your benefits.

Deputy Clerk Johnson stated the Solicitor advises that he can research that because Federal Law may come into play as well and report back.

Alderman Levasseur stated if you'd like to have someone else go ahead I can wait.

Alderman Hirschmann stated this is for the Clerk. With the two ballot questions passing yesterday, does this Board need to take any action for those two questions or are those automatic.

Deputy Clerk Johnson replied no, the vote of the voters is the final say on this.

Alderman Levasseur stated they are going to go to court on this Charter Amendment and let us know as soon as possible. When would you know that, will it be at the next Board meeting. The Settlement Agreement itself that was voted on had specific language in the Settlement Agreement stating that the whole agreement on their side came down to whether the Charter Amendment passed and their indications were in that agreement that the agreement would be null and void because they would then go to court.

Mayor Baines stated I don't know what is going to happen on that maybe nothing will happen and we'll just sit down as the union states and work out those issues for shared services and I think if that happens that really dissolves the intent for the most part of the Charter Amendment, so I would hope that in the spirit of cooperation accepting the views of the voters that we would proceed along those lines.

Alderman Levasseur stated the Charter Amendment specifically states that you now, as the Mayor, have line item veto over that budget and I think you should be happy with that.

Mayor Baines stated no it does not, it does not do that.

Alderman Levasseur stated it says you have more control over that budget.

Mayor Baines stated no, it talks about the budget process which I already control during the present Charter, it really doesn't amend my authority with the Schools at all from what my understanding is.

Alderman Levasseur stated I thought the language was pretty clear in there. Just one more point and it's been in the news quite often, it's something that is very discouraging to me as a person who uses the facility over at MCTV, I understand you put a committee together to check into what proposals we can get through for public access...I am very, very discouraged by the activities that are going on over at MCTV specifically the Director of MCTV and I don't want to get into name calling, but there's been a ruling made, your

Honor, that I am not allowed to have certain individuals who cannot have access privileges...I can't film those people...

Mayor Baines interjected we have no authority, here the Board of Mayor and Aldermen.

Alderman Levasseur stated no, you'd be surprised, your Honor. You're the Mayor and you could make a phone call, pick up the phone and say hey, knock it off and stop playing these games over there.

Mayor Baines stated I can do that.

Alderman Levasseur replied yes and I think you should because there are too many games being played over there and it's getting ridiculous.

Mayor Baines stated the authority is vested in the Chief Executive Officer on the School side who is the Superintendent of Schools...on the School side all I am is a member of the Board with one vote.

Alderman Levasseur asked where are the rules that specifically state that, I've read the PEG Access Rules, your Honor, there is nothing in the rules that state who can be on my show or not be on my show.

Mayor Baines stated we're not going to solve that issue here tonight, it's not even appropriate for us to get involved, we have no authority there.

Alderman Levasseur stated you say it's not appropriate, I think it's something that is very important to these people on this Board, this is a public access issue paid for by taxpayers. If I were you I'd be very upset about the things that are going on here. This is freedom of information...

Mayor Baines stated I've been upset with a number of things that have been going on there.

Alderman Levasseur stated you don't want to make any kind of a statement on how you feel about what's going on over there.

Mayor Baines replied what I've done, just to reiterate I've put together a panel of very well-respected people including Ovide Lamontagne, the former Chairman of the State Board of Education, Mike McCluskey former CEO of NYNEX, Al Capanelli has broadcast experience and works with Highpoint Communications and the task force is chaired by Carol Lacroix the Dean of UNH Manchester and Dr. Richard Gustufson, President of Southern NH University...they are going to be looking at the issues and just advising the School Board...they're well-respected people.

Alderman Vaillancourt asked is there anyone from the American Civil Liberties Union in there.

Alderman Levasseur asked are they people who can get the access channels.

Mayor Baines reiterated they're going to advise us, they're well-respected people...they're advising the School Board, not the Board of Mayor and Aldermen.

Alderman Levasseur stated they are going to be advising them on what, the rule changes or...

Mayor Baines replied they are going to be looking at the public access functions, looking at policies, procedures and protocol, reviewing that and making recommendations and it's going to be fairly short-term...the paper said the spring...in talking with them the next 30 to 45 days.

Alderman Shea stated I'm not sure how new it is but it's a unique situation and maybe I could get an opinion. There is someone in Ward 7 who was running for both Ward Clerk and Selectman and that particular person won in both contests. So, what happens. Do they become the Ward Clerk and relinquish the Selectman and then the next one with the highest vote then takes the place.

Deputy City Solicitor Arnold replied he would have to choose to accept one office and decline another.

Alderman Shea stated that's correct, so the next person who has the next amount of votes. There were four people that ran for Selectmen, so the person that was elected the Ward Clerk is also the one that got the second highest vote for Selectman. So, let's assume that that person decides to be Ward Clerk, does the person who receives the next highest become the...in other words there are three Selectmen, so if that doesn't happen do you run another election for Selectman or what.

Deputy City Solicitor Arnold replied I think we need to take a look at the State law.

Alderman Vaillancourt stated knowing a little bit about Election Laws I don't think you go to the next person that gets the next number of votes that would constitute a total lack of due process. I believe it might be up to the Board of Mayor and Aldermen to appoint that new person, but it's certainly not the next in line do you think. I did want to note following up on Alderman Hirschmann's comments about the Charter questions specifically Question 2. I hope we will be relaying that this pass to the State offices especially the State Senate President because I believe the Senate President has been delaying redistricting Senate lines

until the cities officially redrew their ward lines, so I hope we'll be passing it onto the State level as the earliest opportunity.

Communication from the Chief Negotiator for a negotiation strategy session for a contract presentation.

Mayor Baines recessed the meeting to meet with the Chief Negotiator for a negotiation strategy session.

Mayor Baines called the meeting back to order.

Educational Assistants Agreement

On motion of Alderman Levasseur, duly seconded by Alderman Lopez, it was voted to ratify the Educational Assistant's Agreement.

On motion of Alderman Thibault, duly seconded by Alderman Lopez, it was voted to suspend Rule 26 for the aforementioned contract.

School Support Staff (MESPA)

On motion of Alderman Sysyn, duly seconded by Alderman Levasseur, it was voted to ratify the MESPA Agreement.

On motion of Alderman Thibault, duly seconded by Alderman Lopez, it was voted to suspend Rule 26 for the aforementioned contract.

There being no further business to come before the Board, on motion of Alderman O'Neil, duly seconded by Alderman Lopez, it was voted to adjourn.

A True Record. Attest.

City Clerk